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Computer & Communications Industry Association

August 21, 2013

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: In the Matter of Applications of Verizon New Jersey Inc. and Verizon New York Inc. to Discontinue Domestic Telecommunications Services, WC Docket No. 13-149 and WC Docket No. 13-150; In the Matter of the Commission's Copper Retirement Rules, WC Docket No. 12-353, RM-11358
NOTICE OF EX PARTE LETTER

Dear Ms. Dortch:

The Computer & Communications Industry Association ("CCIA") hereby comments on the Applications of Verizon New Jersey Inc. and Verizon New York Inc. to discontinue domestic telecommunications services to certain parts of New Jersey and New York allegedly "destroyed or rendered inoperable" by Hurricane Sandy on and after October 29, 2012.¹ We request inclusion of this letter in the record for consideration by the Wireline Competition Bureau.

Until Monday, July 29, 2013 the FCC was accepting comments regarding Verizon's request to offer customers in New York and New Jersey an alternative fixed wireless service in place of landline service after 2012 storms destroyed some of their the copper infrastructure. With this filing today, CCIA joins the many companies and consumers' groups who have requested that the FCC review the overall policy rather than approve Verizon's unprecedented petition to discontinue landline telecommunications service to parts of New York and New Jersey, as if it were a routine matter. Parties have detailed the public interest dangers of granting Verizon's post-disaster petition. The underlying issue the FCC must decide is whether, in the wake of a disaster, an incumbent carrier can decide unilaterally to replace landlines with less capable service, which has not been tested on a large scale. In making this decision, the Commission should consider the effects on networks' interconnectivity in the wake of a disaster, the effects on consumers of the changes to this basic public utility service, and Verizon's abuse of regulatory process and disregard for the goals and mandates of the Telecommunications Act.

¹ Public Notice, WC Docket No. 13-149, DA 13-1474 (June 28, 2013); Public Notice, WC Docket No. 13-150, DA 13-1475 (June 28, 2013) (collectively, the "Public Notices"). Verizon's applications referenced in the Public Notices are referred to herein, collectively, as the "Discontinuance Filings."

I. Effects on the System

A. Interconnectivity

Allowing a unilateral switch to Voicelink may not address some of the interconnectivity issues that have made landline networks so effective. The 1934 Communications Act and the 1996 Telecommunications Act have always governed wired landline telephone service. Its provisions regarding service and interconnection obligations are technology-neutral. However, Voicelink and similar technology would be introduced as an unregulated fixed wireless service, for which there are no reliable market substitutes. Competitive cable alternatives for two way voice and data, including Internet access, are by no means ubiquitous in hurricane stricken neighborhoods. It is therefore imperative that the FCC avoid setting a dangerous precedent here.

B. Post-Disaster Relief

Allowing Verizon to replace landline networks with experimental fixed wireless free of FCC standards and safeguards will set the precedent that phone companies are allowed to retreat to substandard technology in the wake of a disaster. Even if Voicelink can be improved to become successful, future experiments are uncertain, which puts consumers and the entire telecom ecosystem at risk.

II. Effects on Consumers and Small Businesses

While it was appropriate for Verizon to improvise immediately after Hurricane Sandy last year, improvisations should not become a new precedent for acceptable telecommunications service in the US. The Voice Link service in place since the storm doesn't have features like reliable 911 emergency service, which is key for customers' access to help in any future disasters as well as personal emergencies. Beyond emergency services, this substitute service prevents small business merchants from electronically processing credit card transactions, eliminates wholesale interconnection obligations, and compromises medical alert devices. If Verizon is permitted to abandon copper technology in this way, it could negatively impact consumers and small businesses on a large scale.

A wide variety of traditional wireline services and devices that consumers rely on could be at stake, such as 911, third-party long-distance services, collect calls, calling cards, medical alert devices, security alarm systems, fax machines, DVRs, and credit cards and other electronic payment systems. DSL service will be lost without copper wires, thereby undercutting competitive landline broadband options for small businesses. Consumers and businesses alike would be forced to use expensive mobile wireless data plans instead.

Public Knowledge explained in their comments that this will also lead to a decrease in innovation, because there will no longer be a network for others to build new services upon:

Verizon's application asserts that Voice Link offers consumers capability that is comparable to what they had before, but notes 'some functionalities that are not telecommunications services – such as alarm systems or facsimile machines – may not work over Voice Link.' These services, however, developed on the traditional wireline network precisely because, *as a telecommunications service*, the network

was required to be open to resellers and innovators building new services on the network.²

In many areas, consumers lack alternate providers, so the local telecom provider has a de facto monopoly. This permits them to set unfairly high prices, and consumers have no other options.

Competition in the business market is already being undercut. As an XO letter in a proceeding in July explained, competition has already been diminished due to Verizon's actions:

The Objection demonstrated that, as a result of Verizon's misstatements to XO and abuse of the relief established in the STA Order, the service alternatives competitors can make available to end users have been reduced, and competition has been diminished.³

A phone connection to the public network is effectively a public utility (like water, gas, and electricity); it is not just a consumer product. Thus, providers have a responsibility to consider the public interest. The aforementioned loss of important consumer services and products that will be eliminated or impaired due to wireline being unavailable is in stark opposition to the public interest.

III. Verizon is Abusing the Regulatory Process

A. Copper Wire Service Obligation

Verizon has the obligation to provide telephone service under the 1996 Telecommunications Act. It should not be permitted to avoid fulfilling this obligation through this unrelated Section 214 Discontinuance process.

B. Intent of Section 214

Section 214 is not meant for post-disaster repair. Section 214 is intended for services that no one is using. Thus, Section 214 public notices for discontinuation often receive no protest. This one has received nearly 100 comments from companies, public interest groups, and state and local government entities, including the New Jersey Board of Public Utilities and the New York State Public Service Commission (NYPSC),⁴ not to mention the hundreds of complaints received by the NYPSC in response to its own request for public comments on this topic.⁵

Verizon is using procedures set up by the FCC under the Telecommunications Act for very different purposes. They have hijacked the Section 214 Discontinuance process to justify replacement of standard phone service with lower-quality service in places of natural disasters. This scheme is purely opportunistic exploitation of very different circumstances in order to avoid statutory obligations to provide service and will only disserve consumers.

² Comments of Public Knowledge, In the Matter of Section 63.71 Application Of Verizon New Jersey Inc. and Verizon New York Inc. to Discontinue Domestic Telecommunications Services, WC Docket No. 13-150, *available at* <http://www.publicknowledge.org/files/PKMotiontoRemove.pdf>, at 3.

³ See XO Communications Services, LLC's Objection to Verizon's Invocation of the Limited Waiver and Special Temporary Authority Granted in the Order Issued in the Matter of Petition of Bellsouth Corporation for Special Temporary Authority and Waiver to Support Disaster Planning and Response and Request for a Cease and Desist Order, WC Docket No. 06-63 and RM-11358 (filed July 1, 2013).

⁴ The docket is available at: <http://apps.fcc.gov/ecfs/proceeding/view?name=13-150>.

⁵ The docket is available at: <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=13-c-0197&submit=Search+by+Case+Number>.

C. Using this Circumstance as a Backdoor Way to Verizon's Desired Deregulatory Outcome

This proposal should be discussed with Congress, instead of allowing Verizon to experiment unilaterally without oversight or safeguards. This filing really underscores the need for the FCC to ensure it has clear policies on companies' obligations when repairing and replacing infrastructure that has been damaged or destroyed by natural disasters. As CCIA pointed out in a February filing to the FCC⁶:

Hurricane Sandy's power outages in NY and NJ left folks waiting to use the few payphones still connected to the copper network. In the face of this problematic status quo, transition to Next Generation 911 (NG9-1-1) is perhaps the most important public policy and regulatory challenge constraining action in this docket. Emerging text to 911 services may be very helpful in some cases, but provide no real substitute for a live voice conversation. Likewise, emergency text messages to family members are an option, but such messages are best not left to the public Internet either. Wireless networks and Internet connections, while in many ways superior to the PSTN, are often more vulnerable to severe weather and power outages.

This could be precedential, as COMPTTEL notes in its filing: "The Commission should tread very carefully here lest its actions be seen as inviting the largest incumbent LECs to cite weather phenomena as an excuse for abandoning last mile landline access to customers over customer objections."⁷

Additionally, XO explains: "The Commission should not permit natural disasters and made-made emergencies that cause damage to existing ILEC networks be exploited by ILECs as opportunities to use Commission processes intended for very different circumstances as a means to undercut competition or cause harm to end users."⁸

CONCLUSION

For the many diverse reasons described above, CCIA respectfully requests that the Commission not grant the petition as filed by Verizon.

Respectfully submitted,



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VP, Government Relations
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Industry Association (CCIA)

⁶ Comments of CCIA, In the Matter of AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353, *available at* http://www.ccianet.org/CCIA/files/ccLibraryFiles/Filename/000000000754/FCC%20Comments%20on%20Transition_to_IP_Networks.pdf, at 9.

⁷ Comments of COMPTTEL, In the Matter of Section 63.71 Applications of Verizon New York, Inc. And Verizon New Jersey Inc. For Authority Pursuant to Section 214 of The Communications Act of 1934, As Amended To Discontinue the Provision of Service, WC Docket No. 13-149 and WC Docket No. 13-150, *available at* http://comptel.org/Files/filings/2013/07-29-13_COMPTTEL_Comments_on_Verizon_Application_to_Discontinue_Service.pdf, at 16.

⁸ Comments of XO, In the Matters of Applications of Verizon New Jersey Inc. and Verizon New York Inc. to Discontinue Domestic Telecommunications Services, WC Docket No. 13-149 and WC Docket No. 13-150, at 5-6.